

UNITED STATES DISTRICT COURT

DISTRICT OF COLORADO
UNITED STATES COURTHOUSE
DENVER, COLORADO 80294

ZITA L. WEINSHIENK
SENIOR JUDGE

MEMORANDUM TO: Trial Counsel

FROM: Judge Zita L. Weinshienk

RE: Proposed Jury Instructions

First, and most importantly, counsel for both sides should meet together well in advance of trial and **stipulate to as many proposed jury instructions as possible**. In my experience, it is often possible for trial counsel to stipulate to all stock instructions, and frequently counsel are able to agree on most substantive instructions as well.

Plaintiff's counsel will be responsible for submitting both the stipulated instructions and plaintiff's instructions. Defense counsel will submit defendant's instructions only. Thus, the Court should receive three different sets of instructions: stipulated, plaintiff's, and defendant's. Each set should be numbered separately (according to the coding system explained below), and there should be **no repetition!** That is, if the parties stipulate to a particular instruction, then that instruction should be submitted as a stipulated instruction only, and no similar instruction should appear in plaintiff's set of instructions or defendant's set.

I require two paper copies of each set of proposed instructions, and one complete set on a computer disk. You must submit these to my law clerk (no file stamp necessary) at least three working days before the start of trial. For the paper copies, one set should have citations listed at the bottom of each instruction, and the other should be clean, meaning no citations or titles. The final clean set will go to the jury. The computer disk set should be submitted in **WordPerfect 9**, if possible, and should not contain citations. If necessary, we can convert files from other word processing programs.

In addition, the instructions must conform to the following requirements:

- (1) **Instruction titles:** Each instruction should include the title "**INSTRUCTION NO. ____**" at the top. For two-page instructions, the second page should read "**INSTRUCTION NO. ____ (con't.)**". DO NOT fill in the numbers, as the instructions will be numbered by my law clerk after I have determined the entire set of instructions to be submitted to the jury. Thus, DO NOT entitle an instruction "PLAINTIFF'S INSTRUCTION NO. 4", for example. Also, the titles should be centered, with a two-line break before the text of the instruction.
- (2) **Font:** Instructions should be submitted in **Arial 12 point font**, if possible.
- (3) **Line spacing** for the text of the instructions should be **1.5**.
- (4) **Justification:** Except for the title explained above, please use a **left margin** justification, not full justification.
- (5) **Coding system:** On each instruction, you should include a "code" to help us identify the instruction. We will use these codes when referring to the instruction during our jury instruction conference, and when making a record on instructions.

For civil cases, the code consists of the first four letters of plaintiff's name plus the instruction number, followed by a period and then either the letter "p" or "d", depending upon which party prepared the instruction. For example, if there are 22 proposed plaintiff's instructions in the case of *Smith v. Jones and Safe Corp.*, they would be coded "smit001.p" through "smit022.p". Defendant Jones' instructions would start with "smit001.d" and defendant Safe Corp.'s would start with "smit001.d2". The stipulated set submitted by plaintiff would start with "smit001.s".

For criminal cases, the first four letters of the code are derived from the name of the first-listed defendant. In the criminal case of *United States v. Davis, et al.*, therefore, the government's 14th instruction would be coded "davi014.p".

- (6) **Saving to disk:** These codes also should be used when saving the instructions on computer disk. **When submitting a set of instructions on disk, each instruction must be saved as a separate document.** Thus, if defendant submits 22 instructions, there should be 22 separate documents on the disk. These documents should be named according to the code assigned to each instruction (smit001.d, smit002.d, etc.). **Do not save all instructions as one continuous document!**
- (7) **CJI:** In a diversity case, I prefer that you submit instructions that conform to the Colorado Jury Instructions (CJI). CJI may also be used for stock instructions in a federal question case.
- (8) **Stylistic conventions:** When referring to this Court in the body of the instructions, the "C" in Court should always be capitalized. In addition, do not use articles when referring to the parties. Do capitalize the parties. The preferred format is thus "Plaintiff" rather than "the Plaintiff" or "plaintiff."
- (9) **Proofread** your submissions carefully, please.

FOR YOUR REFERENCE, COPIES OF PROPOSED INSTRUCTIONS WITH AND WITHOUT CITATIONS ARE ATTACHED. If the instructions submitted do not conform to these guidelines, they may be returned to you for reformatting.

Additional Instructions: If, during the course of trial, you determine that additional instructions are necessary, please provide one paper copy with citations, one paper copy without citations, and a disk to my law clerk as soon as possible. Of course, you must also give a copy to opposing counsel. Please note that my law clerk will be your primary contact for all matters relating to jury instructions.

Jury Instruction Conference: We will have an instruction conference shortly before the case goes to the jury, usually during a lunch break or after the jury is excused for the day. If possible, we will provide you with a draft set of instructions ahead of time. At the instruction conference, I will go through the draft set with you, and you will have an opportunity to request changes to the proposed instructions. You also will have an opportunity to state objections on the record after the conclusion of the conference.

Please read the above instructions carefully. If you have any questions, you may call the law clerk assigned to your case.

Thank you for your cooperation in ensuring a smooth trial.

INSTRUCTION NO. ____

You are the sole judges of the credibility of the witnesses and the weight to be given their testimony. You should take into consideration their means of knowledge, strength of memory and opportunities for observation; the reasonableness or unreasonableness of their testimony; the consistency or lack of consistency in their testimony; their motives; whether their testimony has been contradicted or supported by other evidence; their bias, prejudice or interest, if any; their manner or demeanor upon the witness stand; and all other facts and circumstances shown by the evidence which affect the credibility of the witnesses.

Based on these considerations, you may believe all, part or none of the testimony of a witness.

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